IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE TWELFTH DAY OF JULY
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE A.GOPAL REDDY

WRIT PETITION NO : 8454 of 2000

Between:

M.C.Shankaranarayana Chetty.

..... PETITIONER

AND

1. The District Collector, Chittor, Chittoor District.

2 The Joint Collector, Chittoor, Chittoor District.

3 The Revenue Divisional Officer,

Madanapalli Division, Chittoor District.

.....RESPONDENTS.

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an order, direction or Writ especially one in the nature of Writ of Mandamus by declaring the impugned order passed by the District Collector, Chittoor in proceedings No. D.Dis.S1/925/99 dated 18-03-2000 while confirming the orders passed by the 2nd respondent and 3rd respondent as illegal, bad and arbitrary and against the principles of natural justice and also against the circular issued by the Government from time to time by holding the impugned order is illegal, bad and arbitrary with a direction to the Respondents to continue the dealership of the fair price shop of Nerabylu village, Yerravaripalem Mandal, Chittoor District.

Counsel for the Petitioner:MR.K.VENUGOPALA CHARY

Counsel for the Respondent Nos. 1 to 3: G.P. for Civil Supplies.

The Court made the following :

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THE HON'BLE MR JUSTICE A.GOPAL REDDY

WRIT PETITION NO : 8454 of 2000

ORDER:

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None appeared for the petitioner when the matter was called on 05-07-2004. Therefore, the matter was directed to be listed “for dismissal” today. Today also none appears.

2. Heard the Assistant Government Pleader and perused the record.

3 . The petitioner was appointed as Fair Price Shop Dealer Narabylu Village of Yerravaripalem Mandal, Chittoor District. While so the Mandal Revenue Officer, Yerravaripalem, on receiving information that the petitioner is not distributing the essential commodities to the card holders properly and indulged in clandestine movement of essential commodities in APSRTC Bus, along with the A.S.O. and V.A.O. of Yerravaripalem, checked the bus on 27-10-1996 and found that 70 litres of blue kerosene was carried by one Sri T.Ramu, and on enquiry it revealed that he purchased the kerosene oil from the petitioner at Rs.7/- per litre and therefore, they seized the same under Section 6-A of the Essential Commodities Act, 1955 and proceedings were initiated and accordingly, show-cause notice was issued to the

petitioner on

17-04-1997 and as many as 9 charges were framed against the petitioner, to which the petitioner submitted his explanation. As the explanation offered by the petitioner was not convincing, his authorization was cancelled by the Revenue Divisional Officer, Madanapalli by proceedings D.Dis.9040/96 dated 06-09-1997. Aggrieved by the same, the petitioner carried the matter in appeal before the Joint Collector who remanded the matter for fresh enquiry. On such remand, fresh show-cause notice was issued by the Revenue Divisional Officer, Madanapalli in Roc. No.C/8414/97 dated 10-02-1998 to which the petitioner submitted his explanation. As the irregularities committed by the petitioner were grave in nature, the authorization issued to him was cancelled by the Revenue Divisional Officer by proceedings dated 15.07.1998. Aggrieved by the same, the petitioner again carried the matter in appeal before the Joint Collector, and on an application made by the petitioner before the Joint Collector for perusing the records and also the manner in which the Revenue Divisional Officer disposed of the matter, the witnesses were again called for by the appellate Authority, and they were cross-examined by the petitioner on each and every charge. After the said cross-examination, the appellate authority considered each and every charge and found charge No.1 is partially proved. Since charge No.1 is partly proved to the shortage of 10 litres of kerosene only and with regard to charge Nos.3, 4 and 5 the petitioner has accepted but he has vested the responsibility on the Nodal Officer such statement cannot be accepted. The Nodal Officer on the oral request of the cardholders had orally instructed the petitioner to issue essential commodities depending on the number of family members residing in the house. The Joint Collector after considering the overall evidence and on perusal of the Sales Register, found that the dealer has shown only 220 Kgs. as balance and again fictitious entries were made in the Sales Register twice from the month of October, 1996 and mis-used the subsidized rice and also found guilty of the above charges and the finding on charge No.7 further strengthens charge Nos.3 and 4 he dismissed the appeal. Aggrieved by the dismissal of the appeal, the petitioner carried the matter in revision before the Collector. While giving benefit of doubt to Charge No.8, the revisional authority held that the irregularities committed by the petitioner were very grave in nature and accordingly, he refused to interfere with the finding arrived at by the primary authority as well as the appellate authority and held that the order passed by the Revenue Divisional Officer requires no interference and dismissed the revision which is the subject matter of challenge in

the present writ petition.

4. As the revisional authority expressed doubt in regard to charge No.8 and the other charges are proved as they are very grave in nature, I felt that the findings arrived at by the revisional authority in dismissing the revision, cannot be interfered.

5. Since elaborate reasons were given by the appellate authority, and the said reasons are recorded after giving fresh opportunity of cross-examining witnesses once again to the petitioner, the findings so arrived at by the appellate authority do not suffer from incurable infirmities nor the findings can be said to be perverse based on no evidence warranting interference by this Court in exercise of certiorari jurisdiction.

6. The writ petition is accordingly dismissed. No costs.

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A.GOPAL REDDY,J.

12th July, 2004.

Chvn.

To

1. The District Collector, Chittor, Chittoor District.

2 The Joint Collector, Chittoor, Chittoor District.

3 The Revenue Divisional Officer,

Madanapalli Division, Chittoor District.

4. Two C.Cs. to G.P. forCivil Supplies, High Court Buildings, Hyderabad(OUT).

5. Two C.D.copies.